



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

EPA Region 5 Records Ctr.



201868

REPLY TO THE ATTENTION OF:

SR-6J

AUG 26 1998

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Clayton Chemical Company  
c/o Emerald LLC  
3185 Lakeside Drive  
Reno, NV 89509

Re: Request for Information Pursuant to Section 104(e) for  
Sauget Area 2 Site Q in Sauget/Cahokia, Illinois

Dear Sir or Madam:

The U.S. Environmental Protection Agency (U.S. EPA) is investigating the Sauget Area 2 Site Q Superfund Site (the Site) in Sauget and Cahokia, Illinois. The U.S. EPA believes that you may have information that is relevant to the investigation of contamination at the Site. Attachment One is a brief description of this Site.

The U.S. EPA asks that you provide information and documents relating to the contamination of the Site. Please respond completely and truthfully to this Information Request and its questions in Attachment Three within thirty (30) days of your receipt of this letter. Instructions for completion of this response are in Attachment Four; definitions of terms used in this Information Request and its questions are in Attachment Five.

You may consider some information that we request as confidential. If you wish to assert a privilege of business confidentiality, you must respond to the question and advise U.S. EPA that you request that the Agency treat the response as confidential business information. Directions to assert a claim of business confidentiality are in Attachment Six.

The Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601, et seq., (commonly referred to as **CERCLA** or **Superfund**) gives the U.S. EPA the authority to:

- 1) assess contaminated sites, 2) determine the threats to human health and the environment posed by a site, and 3) clean up those sites.

Under § 104(e)(2) of CERCLA, U.S. EPA has authority to gather information and to require persons to furnish information or documents relating to:

- A. The identification, nature, and quantity of materials which have been or are generated, treated, stored or disposed of at a vessel or facility or transported to a vessel or facility;
- B. The nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at/or from a vessel or facility;
- C. The ability to pay the costs of the clean up.

Compliance with this Information Request is mandatory. Failure to respond fully and truthfully to each question within this Information Request and within the prescribed time frame can result in an enforcement action by U.S. EPA pursuant to § 104(e)(5) of CERCLA, as amended. Failure to respond and failure to justify the non-response can result in similar penalties under this Section. Further, § 104(e)(5) authorizes the United States to seek penalties from a Federal Court of up to twenty-seven thousand, five-hundred dollars (\$27,500) for each day of continued non-compliance. The U.S. EPA considers non-compliance to be not only failure to respond to the Information Request, but also failure to respond completely and truthfully to each question in the Information Request.

The provision of false, fictitious or fraudulent statements or misrepresentations may subject you or your firm to criminal penalties of up to ten thousand dollars (\$10,000) or up to five (5) years imprisonment, or both, under 18 U.S.C. 1001.

The U.S. EPA has the authority to use the information requested in an administrative, civil, or criminal action.

This information request is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

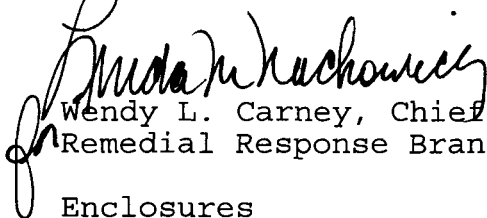
Return your response to U.S. EPA within thirty (30) days of your receipt of this Information Request. Mail your response to:

Carlton D. Cuffman  
U.S. Environmental Protection Agency  
Region 5 [SR-6J]  
77 West Jackson Street  
Chicago, IL 60604

If you have questions regarding a legal matter, please call Leslie A. Kirby, Assistant Regional Counsel, at (312) 886-7166. Address all other questions to Carlton D. Cuffman at (312) 353-3191.

We appreciate your effort to respond fully and promptly to this information request.

Sincerely yours,

  
Wendy L. Carney, Chief  
Remedial Response Branch #1

Enclosures

cc: Paul Takacs, Illinois Environmental  
Protection Agency

## ATTACHMENT ONE

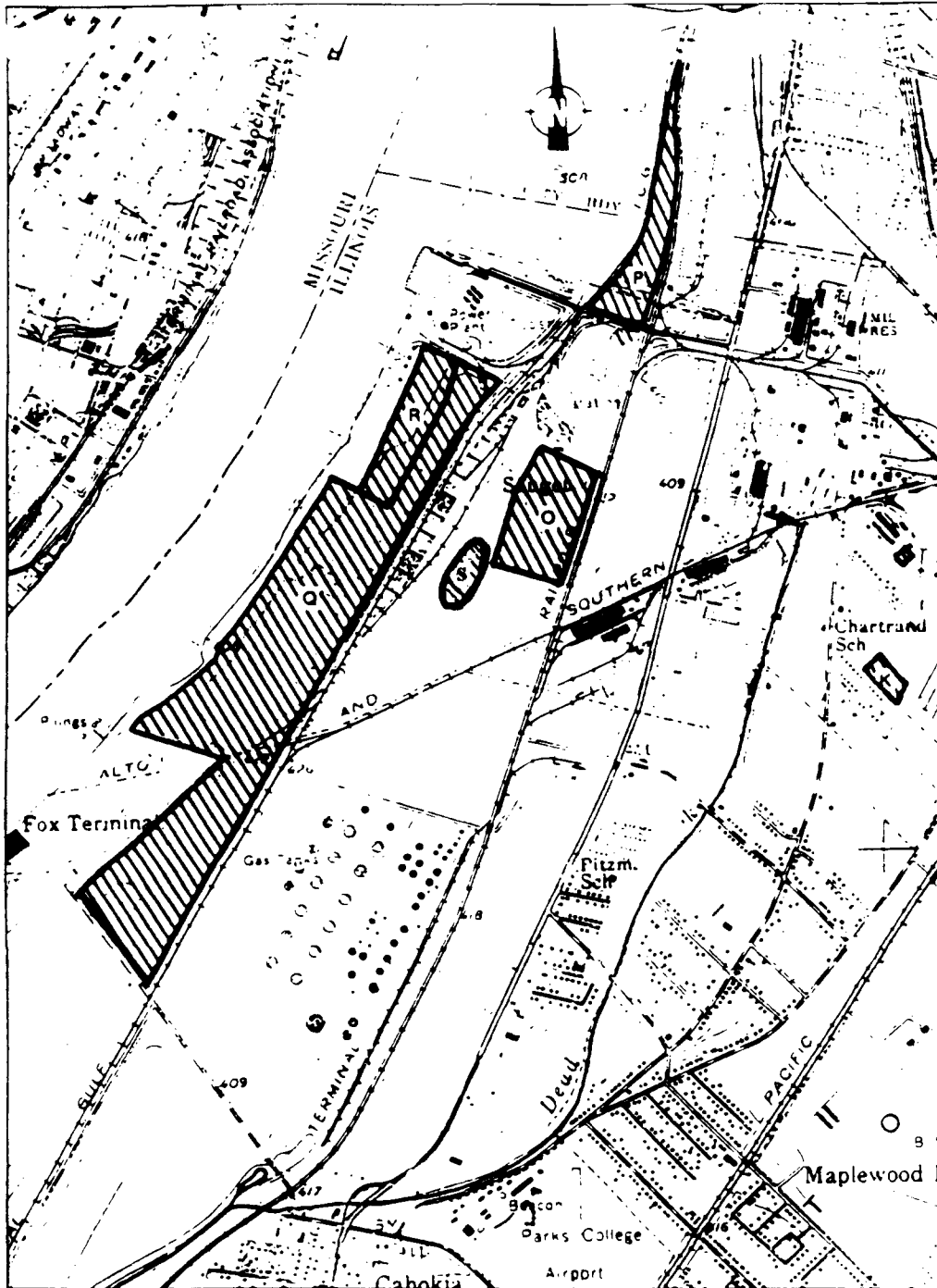
Site History

Sauget Area 2, Site Q, along with Area 1, is part of the Sauget Sites. The Sauget Sites consist of a number of former municipal and industrial waste landfills; surface impoundments or lagoons; surface disposal areas; past excavation thought to be filled or partially filled with unknown wastes; and an areal drainage flowpath known as Dead Creek.

Site Q is a former subsurface/surface disposal area which occupies approximately 90 acres. The Site is located in the cities of Sauget and Cahokia, Illinois, and is bordered by Area 2, Site R and the old Sauget Power Plant on the north; the Illinois Central Gulf Railroad and a United States Army Corps of Engineers river levee on the east; agricultural land on the south; and the Mississippi river on the west. Site Q disposal activities occurred from the early 1950s to approximately 1975.

## ATTACHMENT TWO

## Site Q Map



SOURCE: USGS Cahokia Quad, 1974.

SCALE

0 0.5 1 MILE

ATTACHMENT THREE

Information Requests

1. Describe the circumstances surrounding the dissolution of Clayton Chemical including in your answer the following:
  - a. the exact date of dissolution;
  - b. the names and addresses of any and all shareholders at the time of dissolution;
  - c. the value of all assets distributed to each shareholder as a result of the dissolution;
  - d. the final disposition of all assets, liabilities, and shares of Clayton Chemical;
  - e. the identity of all parties to any transactions relating to or arising out of the dissolution; and
  - f. the identity of all documents relating to the dissolution.
2. Identify any successor corporations or other entities of Clayton Chemical.
3. If Clayton Chemical was a subsidiary of another corporation, identify such other corporation and state the dates during which the parent/subsidiary relationship existed and the names and addresses of that corporation's president, chairman of the board and other officers.
4. Describe any asset purchase agreements, whereby some or all of the assets of Emerald LLC and/or Clayton Chemical were ever sold to any other entity, including the date(s), the companies involved and the terms of such asset purchase agreement(s).
5. Provide Emerald LLC's most recent balance sheet and tax return.

## ATTACHMENT FOUR

Instructions

1. A separate response must be made to each of the questions set forth in this Information Request.
2. Precede each answer with the number of the Information Request to which it corresponds.
3. In answering each Information Request, identify all contributing sources of information.
4. If information is not known or is not available to the Respondent as of the date of submission of his/her response, should information later become known by or available to the Respondent, Respondent must supplement his/her response to U.S. EPA. Moreover, should the Respondent find, at any time after the submission of his/her response that any portion of the submitted information is false or misrepresents the truth, Respondent must notify U.S. EPA thereof as soon as possible.
5. For each document produced in response to this Request for Information, indicate on the document, or in some other reasonable manner, the number of the question to which it responds.
6. You must respond to the Information Requests on the basis of all information and documents in your possession, custody or control or in the possession, custody or control of your former or current employees, agents, servants, contractors or attorneys. Furnish such information as is available to you, regardless of whether or not it is based on personal knowledge, and regardless of source.
7. Your response should be accompanied by a notarized affidavit from a responsible company official or representative stating that a diligent record search has been completed and that there has been a diligent interviewing process with present and former employees who may have knowledge of the operations, hazardous substance use, storage, treatment, releases, spills, disposal or other handling practices of the Respondent between 1925 and the present. To the extent that any information you provide relating to these Requests is based on your personal knowledge, or the personal knowledge of your employees, agents, or other representatives, this information shall be in the form of a notarized affidavit.

8. If any documents requested herein have been transferred voluntarily or involuntarily to others or have been otherwise disposed of, identify each such document, identify the person to whom it was transferred, describe the circumstances surrounding such transfer or other disposition, and state the date or approximate date of such transfer or other disposition.
9. The information requested herein must be provided notwithstanding its possible characterization as confidential information or trade secrets. You may, if you desire, assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 C.F.R. 2.203(b). Information covered by such a claim will be disclosed by the U.S. EPA only to the extent, and only by means of the procedures set forth in 40 C.F.R. Part 2, Subpart B. [See 41 Federal Register 36901 et seq. (September 1, 1976); 43 Federal Register 4000 et seq. (September 8, 1978); 50 Federal Register 51654 et seq. (December 18, 1985).] If no such claim accompanies the information when it is received by the U.S. EPA, it may be made available to the public by the U.S. EPA without further notice to you. You should read carefully the above-cited regulations, together with the standards set forth in Section 104(e)(7) of CERCLA, before asserting a business confidentiality claim, since certain categories of information are not properly the subject of such a claim, as stated in Section 104(e)(7)(ii) of CERCLA. In order to facilitate handling any confidential business or financial information, please provide such information on separate pages and group all such pages together in one portion of the response. Clearly identify the information as confidential by placing the word "confidential" in the upper right hand corner of the first page containing the information and on the cover letter transmitting it.
10. U.S. EPA has the authority to use the information requested herein in an administrative civil or criminal action.



## ATTACHMENT FIVE

Definitions

For the purpose of the Instructions and Requests for Information set forth herein, the following definitions shall apply:

1. The term "you" or "Respondent" shall mean the addressee of this Request, the addressee's officers, managers, employees, contractors, trustees, predecessors, partners, successors, assigns, subsidiaries and agents.
2. The term "person" as used herein includes, in the plural as well as the singular, any natural person, firm, contractor, unincorporated association, partnership, corporation, trust or governmental entity, unless the context indicates otherwise.
3. "The Site" or "the Facility" shall mean and include the property shown on Attachment Two.
4. The term "hazardous substance" shall have the same definition as that contained in Section 101(14) of CERCLA, including any mixtures of such hazardous substances with any other substances including petroleum products.
5. The term, "pollutant" or "contaminant", shall have the same definition as that contained in Section 101(33) of CERCLA, and includes any mixtures of such pollutants and contaminants with any other substances.
6. The term "hazardous waste" shall have the same definition as that contained in Section 1004(5) of RCRA.
7. The term "solid waste" shall have the same definition as that contained in Section 1004(27) of RCRA.
8. The term "materials" shall mean all substances that have been generated, treated, stored, or disposed of or otherwise handled at or transported to the Site, including but not limited to all hazardous substances, pollutants and contaminant, hazardous wastes, solid wastes, as defined above.
9. The term "hazardous material" shall mean all hazardous substances, pollutants or contaminants, and hazardous wastes, as defined above.
10. The term "non-hazardous material" shall mean all material as defined above, excluding hazardous substances, pollutants and contaminants, and hazardous waste.

11. The terms, "furnish", "describe", or "identify" or "indicate", shall mean turning over to U.S. EPA either original or duplicate copies of the requested information in the possession, custody, or control of the Respondent. Where specific information has not been memorialized in any document but is nonetheless responsive to an information request, you must respond to the request with a written response. If such requested information is not in your possession, custody, or control then indicate where such information or documents may be obtained.
12. The term "identify" means, with respect to a natural person, to set forth the person's full name, present or last known business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, position or business.
13. The term "identify" means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship), to set forth its full name, address, legal form (e.g. corporation, partnership, etc.), organization, if any, and a brief description of its business.
14. The term "identify" means, with respect to a document, to provide its customary business description, its date, its number if any (invoice or purchase order number), the identity of the author, addressor, addressee and/or recipient, and the substance or the subject matter.
15. "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant.
16. "Transaction" or "Transact" means every separate act, deal, instance, occurrence, sale, transfer, giving, delivery, change in ownership, or change in possession.
17. As used herein, "document" and "documents" shall include writings of any kind, formal or informal, whether or not wholly or partially in handwriting (including by the way of illustration and not by way of limitation), any invoice, receipt, endorsement, check, bank draft, canceled check, deposit slip, withdrawal slip, order, correspondence, record book, minutes, memorandum of telephone and other conversations including meetings, agreements and the like, diary, calendar, desk pad, scrapbook, notebook, bulletin, circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, report, notice, message, analysis,

comparison, graph, chart, interoffice or intraoffice communications, photostat or other copy of any documents, microfilm or other film record, any photograph, sound recording on any type of device, any punch card, disc or disc pack; any tape or other type of memory generally associated with computers and data processing (together with the programming instructions and other written material necessary to use such punch card, disc, or disc pack, tape or other type of memory and together with printouts of such punch card, disc, or disc pack, video tape or other type of memory); including

- (a) every copy of each document which is not an exact duplicate of a document which is produced, (b) every copy which has any writing, figure or notation, annotation or the like of it, (c) drafts, (d) attachments to or enclosures with any document and (e) every document referred to in any other document.
18. "And" as well as "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of these information requests any information which might otherwise be construed to be outside their scope.
19. Words in the masculine shall be construed in the feminine, and vice versa, and words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions.
20. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA, RCRA, 40 CFR Part 300 or 40 CFR Part 260-280, in which case the statutory or regulatory definitions shall apply.

## ATTACHMENT SIX

## CONFIDENTIAL BUSINESS INFORMATION

You may consider some of the information confidential that the U.S. Environmental Protection Agency (U.S. EPA or Agency) is requesting. You cannot withhold information or records upon that basis. The Regulations at 40 C.F.R. Part 2, Section 200 *et seq* require that the U.S. EPA affords you the opportunity to substantiate your claim of confidentiality before the Agency makes a final determination on the confidentiality of the information.

You may assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 C.F.R. 2.203(b). Information covered by such a claim will be disclosed by the U.S. EPA only to the extent and only by means of the procedures set forth in 40 C.F.R. Part 2, Subpart B. (See 41 Federal Register 36902 *et seq.* (September 1, 1976); 43 Federal Register 4000 *et seq.* (December 18, 1985).) If no such claim accompanies the information when the U.S. EPA receives it, the information may be made available to the public by the Agency without further notice to you. Please read carefully these cited regulations, together with the standards set forth in Section 104(e)(7) of Comprehensive Environmental Response Compensation Liability Act (CERCLA), because, as stated in Section 104(e)(7)(ii), certain categories of information are not properly the subject of a claim of confidential business information.

If you wish the U.S. EPA to treat the information or record as "confidential", you must advise the U.S. EPA of that fact by following the procedures described below, including the requirement for supporting your claim of confidentiality. To assert a claim of confidentiality, you must specify which portions of the information or documents you consider confidential. Please identify the information or document that you consider confidential by page, paragraph, and sentence. You must make a separate assertion of confidentiality for each response and each document that you consider confidential. Submit the portion of the response that you consider confidential in a separate, sealed envelope. Mark the envelope "confidential", and identify the number of the question to which it is the response.

For each assertion of confidentiality, identify:

1. The period of time for which you request that the Agency consider the information confidential, e.g., until a specific date or until the occurrence of a specific event;

2. The measures that you have taken to guard against disclosure of the information to others;
3. The extent to which the information has already been disclosed to others and the precautions that you have taken to ensure that no further disclosure occurs;
4. Whether the U.S. EPA or other federal agency has made a pertinent determination on the confidentiality of the information or document. If an agency has made such a determination, enclose a copy of that determination;
5. Whether disclosure of the information or document would be likely to result in substantial harmful effects to your competitive position. If you believe such harm would result from any disclosure, explain the nature of the harmful effects, why the harm should be viewed as substantial, and the causal relationship between disclosure and the harmful effect. Include a description of how a competitor would use the information;
6. Whether you assert that the information is voluntarily submitted as defined by 40 C.F.R. 2.201(I). If you make this assertion, explain how the disclosure would tend to lessen the ability of the U.S. EPA to obtain similar information in the future;
7. Any other information that you deem relevant to a determination of confidentiality.

Please note that pursuant to 40 C.F.R. 2.208(e), the burden of substantiating confidentiality rests with you. The U.S. EPA will give little or no weight to conclusory allegations. If you believe that facts and documents necessary to substantiate confidentiality are themselves confidential, please identify them as such so that the U.S. EPA may maintain their confidentiality pursuant to 40 C.F.R. 2.205(c). If you do not identify this information and documents as "confidential", your comments will be available to the public without further notice to you.